BILL NO. S-83-07-44

SPECIAL ORDINANCE NO. S-152-83

ORDINANCE AUTHORIZING THE CITY OF
FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT
FIRST MORTGAGE REVENUE BOND, SERIES 1983
(F-C-F PROJECT)
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Fort Wayne Economic Development Commission has rendered its project report for the F-C-F Project regarding the financing of proposed economic development facilities for F-C-F, an Indiana General Partnership, and the Fort Wayne Plan Commission has commented favorably thereon; and

WHEREAS, the Fort Wayne Economic Development Commission conducted a public hearing on July 21, 1983, and also adopted a resolution on July 21, 1983, which Resolution has been transmitted to this Common Council, finding that the financing of certain economic development facilities for F-C-F, an Indiana General Partnership, complies with the purposes and provisions of I.C. 36-7-12 and that such financing will be of benefit to the health and welfare of the City of Fort Wayne and its citizens, and further finding as follows:

a. The financing will not create an unjustified competitive disadvantage with other companies within the area;

b. The Financing will stimulate the local economy;

c. The financing will result in creation or retention of a significant number of jobs;

d. The project being financed would not be undertaken without tax exempt financing; and

WHEREAS, the Fort Wayne Economic Development Commission has found that the proposed facilities will be located within an economic development target area as designated by this Common Council and Ordinance No. S-115-83 adopted June 28, 1983, and will contribute significantly to the creation of 15 to 20 permanent new job opportunities over the next three years; and

WHEREAS, the Fort Wayne Economic Development Commission considered whether the proposed economic development facilities would have an adverse competitive impact upon any similar facilities and made special findings of fact contained in its Resolution; and

WHEREAS, the Fort Wayne Economic Development Commission has approved and recommended the adoption of this form of Ordinance by this Common Council and has approved the substantially final forms of and has transmitted for approval by the Common Council Loan Agreement, Note, Mortgage and Indenture of Trust, Lease Agreement, Conditional Assignment of Lease and Rentals, Lessee's Consent and Agreement to Lease Assignment ; now therefore,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA THAT:

SECTION 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement, Mortgage and Indenture of Trust, approved by the Fort Wayne Economic Development Commission and presented to the Common Council, the issuance and sale of the revenue bonds, the loan of the proceeds of the revenue bonds to F-C-F, an Indiana General Partnership for the acquisition and consturction of such facilities and the equipping thereof, the lease of said facilities to Chronister Drug Stores, Inc. pursuant to the lease, and the securing of said Bond by the mortgaging of the land and building included in the project to the City of Fort Wayne, and to Kendallville Bank and Trust Company as Trustee, under the Loan Agreement, Mortgage and Indenture of Trust, which Loan Agreement, Mortgage and Indenture of Trust are assigned, transferred and pledged to the Trustee pursuant to the Mortgage and Indenture of Trust, complies with the purposes and provisions of I.C. 36-7-12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The Common Council further finds that (a) the financing will not create an unjustified competitive disadvantage to other companies within the area; (b) the financing will stimulate the local economy; (c) the financing will result in the creation or retention of a significant number of jobs; and (d) the project would not be undertaken without tax exempt financing.

SECTION 3. The Common Council further finds that the proposed facilities will be located within an economic development target area as designated by this Common Council and Ordinance No. S-115-83 adopted June 28, 1983, and will contribute significantly to the creation of 15 to 20 permanent new job opportunities over the next three years.

SECTION 4. This Common Council has considered whether the proposed economic development facilities will have an adverse competitive impact on any similar facilities, and now makes the following special findings of fact based upon the evidence presented to the Fort Wayne Economic Development Commission and this Common Council:

(1) By their nature, drug stores draw customers from a rather limited geographic market area surrounding the location of the drug store;

(2) The only operating drug store in the market area of the proposed location will be moved to the proposed location because the current site is 50% too small and it lacks necessary visibility for a drug store operation.

(3) No members of the public objected to the financing of the proposed economic development facilities; and

(4) The proposed economic development facilities will not have an adverse competitive impact on any similar facilities already under construction or in operation in the same market area in the City of Fort Wayne, Indiana.

SECTION 5. The substantially final forms of the Loan Agreement, Note, Mortgage and Indenture of Trust, Lease Agreement, Conditional Assignment of Lease and Rentals, Lessee's Consent and Agreement to Lease Assignment, approved by the Fort Wayne Economic Development Commission are hereby approved and all such documents (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-12), are hereby approved, and all such documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with provisions of I.C. 36-1-5-4 two (2) copies of all such documents are on file in the office of the Clerk for public inspection.

SECTION 6. The City of Fort Wayne shall issue its Economic Development First Mortgage Revenue Bond, Series 1983 (F-C-F Project), in the total principal amount of Two Hundred Forty Thousand Dollars ($240,000.00) and maturing July 1, 1998, except that monthly payments of principal and interest shall be paid as set forth in the Mortgage and Indenture of Trust and Note, for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the economic development facilities as more particularly set out in the Loan Agreement, Mortgage and Indenture of Trust, incorporated herein by reference, which bond will be payable as to principal, premium, if any, and interest from the note payments made by F-C-F, an Indiana General Partnership under the Loan Agreement, Mortgage and Indenture of Trust, and Note, which payments are to be paid by Chronister Drug Stores, Inc., under the terms of the Lease or as otherwise provided in the above-described documents. The Bond is issued in fully registered form in the principal sum of $240,000.00, may be assigned and transferred pursuant to the Mortgage and Indenture of Trust; payments of principal and interest are payable in lawful money of the United States of America to the Trustee; the

bond is subject to redemption as set forth in Article 3 of the Mortgage and Indenture of Trust. The Bond shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Fort Wayne, nor is the bond payable in any manner from revenues raised by taxation.

SECTION 7. The Mayor, Clerk, and Constroller are authorized and directed to sell such bond to the purcahser thereof at a rate of interest per annum equal to 85% of the average discount rate of 182-day Treasury Bills of the four (4) Treasury Bill auctions preceding the date of delivery hereof, but in no event shall the rate per annum of this bond exceed 12% per annum nor be less than 6-1/2% per annum, said rate changing on each January 1 and July 1 to the rate per annum equal to 85% of the average discount rate of 182-day Treasury Bills of the four (4) Treasury Bill auctions immediately preceding such January 1 or July 1 but in no event exceeding 12% per annum nor less than 6-1/2% per annum and at a price of 100% of the principal amount thereof.

SECTION 8. The Mayor, Clerk, and if necessary, the Controller, are authorized and directed to execute, attest, affix or imprint by any means the City seal to documents constituting the Financing Agreement approved herein on behalf of the City and any other documents which may be necessary or desirable to consummate the transaction, including the Bond authorized herein. The signatures of the Mayor and Clerk on the Bond may be either manual or facsimile signature. The Clerk is authorized to arrange for delivery of such Bond to the Trustee named in the Trust Indenture, payment for the Bond will be made to the Trustee named in the Trust Indenture, and after such payment the Bond will be delivered by the Trustee to the purchaser thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the Bond to the Trustee within ninety days of the adoption of this Ordinance. The Bond shall be dated as of the date of delivery.

SECTION 9. The provisions of this Ordinance and the Trust Indenture securing the Bond shall constitute a contract binding between the City of Fort Wayne and the holder of the Economic Development Revenue Bond (F-C-F Project), and after the issuance of said Bond, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said Bond or the interest thereon remains unpaid.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

Mark E. Giaquinta

COUNCILMAN

APPROVED AS TO FORM AND LEGALITY.

John J. Wernet, Attorney for the
Fort Wayne Economic Development Commission
Dated this 25th day of July, 1983.

Read the first time in full and on motion by Gia Quinta, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee Zoning (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on ~~_____~~, the ~~_____~~ day of ~~_____~~, 19___, at _____ o'clock ___.M.,E.S.T.

DATE: 7/26/83. Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Gia Quinta, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	8			1	
BRADBURY	✓				
BURNS	✓				
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT	✓				
SCHOMBURG	✓				
SCRUGGS	✓				
STIER	✓				
TALARICO				✓	

DATE: 8-9-83. Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) NO. S-152-83 on the 9th day of August, 19 83.

ATTEST: Sandra E. Kennedy
CITY CLERK

(SEAL) Barbara A. Ebert
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of August, 19 83, at the hour of 11:00 o'clock A.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 15th day of August 19 83, at the hour of 9 o'clock A M.,E.S.T.

WIN MOSES, JR. - MAYOR

BILL NO. S-83-07-44

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ORDINANCE ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT FIRST MORTGAGE REVENUE BOND, SERIES 1983 (F-C-F PROJECT) AND APPROVING OTHER ACTIONS IN RESPECT THERETO

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GiaQUINTA, CHAIRMAN — Mark E. GiaQuinta

JAMES S. STIER, VICE CHAIRMAN

JANET G. BRADBURY — Janet G. Bradbury

SAMUEL J. TALARICO — Samuel J. Talarico

DONALD J. SCHMIDT — D. Schmidt

Concurred in 8-9- A. Kennedy, a/c

DIGEST SHEET

TITLE OF ORDINANCE Special S-83-07-44

DEPARTMENT REQUESTING ORDINANCE Economic Development Commission

SYNOPSIS OF ORDINANCE An Ordinance authorizing the City of Fort Wayne to issue its Economic Development Revenue Bond (F-C-F Project) and approval of final financing documents. An Inducement Resolution for this Project was previously adopted by City Council.

EFFECT OF PASSAGE Permanent financing of the facilities.

EFFECT OF NON-PASSAGE None of the above.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) None.

ASSIGNED TO COMMITTEE (PRESIDENT)